



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Bayne Satterfield, Commissioner  
Firemen's Pension Commission  
P. O. Box 1062  
Austin, Texas

Dear Sir:

Opinion No. O-6709

Re: The monthly payments and allowance to the guardian of each child under Article 6243e, Sec. 12, is to be considered separately.

Article 6243e, Sec. 12, of Vernon's Annotated Civil Statutes, 1925, as amended, provides in part as follows:

"If any member of any department as herein defined, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever; or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duties; or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate and shall leave surviving a widow, a child, or children under the age of eighteen (18) years . . . . . said Board of Trustees shall order paid a monthly allowance as follows: . . . . . (a) to the guardian of each child the sum of Six Dollars (\$6.00) per month until such child reaches the age of eighteen (18) years; . . . ."

Your letter asking us to construe this statutory provision is as follows:

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"With further reference to your recent opinion in which you state that payments to minors who are entitled to benefits under Article 4243-a should be made to the guardian of the estate, if one, and if not then to the county clerk.

"The question now arises as to whether or not each payment should be considered separately or collectively. For instance, each child is entitled to \$6.00 per month which would amount to \$288 for a 4 year period and this amount would exceed the \$250 maximum which may be paid to the registry of the court.

"In view of the above we would appreciate your ruling on the following questions:

"1. Should each monthly payment be considered separately?

"2. If each monthly payment may be considered separately, and it is obvious, from the age of the child, that payments to it collectively will amount to more than \$250, how should the payments be made and to whom, where no guardian of the estate has been appointed?"

There is no provision in the statute for a lump sum settlement of these benefits and each monthly payment is in fact a separate payment arising from a liquidated claim. However, we see no objection to the payment of such benefits to the County Clerk under Article 4112-a, V.A.C.S., for the use and benefit of the minor; but, it should be borne in mind that under this article, the Clerk is not authorized to hold more than \$250.00 of the accumulated monthly payments in the funds of the minor at any one time.

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As a practical matter, due to the small installments involved here, the expense of making separate withdrawals would be prohibitive and while both forms of withdrawals -- i.e., by regular guardianship or under the procedure of Article 4112-a, V.A.C.S. -- are permissible, we think a guardianship advisable in this case.

Since we have held that these monthly payments are to be considered separate payments, it is not necessary for us to answer your second question.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *David Wuntch*

David Wuntch  
Assistant

APPROVED OCT 24, 1945

*Bayne Satterfield*  
ATTORNEY GENERAL OF TEXAS

DW:sd:mb

